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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William Martin Snelgrove

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08/24/2006

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EXAMINER

FELTEN, DANIEL S

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental*  
**Office Action Summary**

Application No.

09/809,421

Applicant(s)

WILLIAM SNELGROVE

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-38, 40, 41, 44 and 46-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-38, 40, 41, 44 and 46-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This is a Supplemental Office Action to the office Action mailed May 12, 2006.

***Response to Arguments***

1. Applicant's arguments filed April 03, 2003 have been fully considered but they are not persuasive.
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "live" voice) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
3. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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4. For the reasons cited above the rejections of December 03, 2002 are maintained and are restated below for the applicant's convenience:

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 24-38, 40, 41, 44 and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nitta (US 5,347,306) and Harrington et al (Hereinafter "Harrington", US 6,161,099)

Nitta discloses a system, as in claims 24, 34 and 41 which may be used as an auction system for use over a communication network (see Nitta Abstract), comprising:

an participant voice transmitter (see microphone--16 and audio transmission unit--62) for entering participant voice messages from a participant (see col. 4, 11. 43 to col. 43-63., and col. 5, 1. 44 to col. 5, 11. 6),'

a plurality of participant voice terminals (station #1, station #2, station #3) each for entering voice participant messages from a participant respective thereto, each of said participant voice terminals also for presenting voice participant messages from other participant and said participant voice messages (see col. 4, 11. 43-55);

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a connecting means ( bus--36 or audio bus--60) interconnecting said transmitter and said terminals (see col. 4, 11. 63+-, and col. 5, 11. 57 to col. 6, 11. 9);

a processing means (persona control unit--20) attached to said connecting means (audio bus--60) for converting said participant voice messages and said voice participant messages into participant data signals each of said participant data signals containing a participant identifier and participant information (see col. 4, 11. 56 to col. 5, 11. 8),. and recognizing means from converting said and voice bidder messages into a bidder data signal;

as in claims 34 and 33, background noise reducing means from reducing background noise originating at least one of said auctioneer voice transmitter and said plurality of bidder voice terminals (see audio transmission unit--e, col. 6, 11. 41-50); and

an output means (see fig. 1, SPKR or speakers- 91 and 92) connected to said processing means (persona control unit--20) for presenting said participant data signals contain said participant identifier and said participant information to said (see fig.2, col. 5, 11 4+).

Harrington discloses a process and apparatus for conducting auction over an electronic network , as in claim 29, 30, 31, 34 and 36, time compensation means attached to said connecting means for determining propagation delays of signals within said network and utilizing said propagation delays from ordering said active bidder messages according to a real-time order in which said network and utilizing and propagation delays for ordering said active bidder messages according to a real-time order in which said bidder messages were entered (see Harrington, col. 4, 11. 34 to col. 5, 11. 42),. furthermore, wherein said time compensation means further utilizes said propagation delays for alerting said auctioneer that one or more of said

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bidders entered one of said bidder messages before hearing that bidding was closed (see Harrington, col. 4, 11. 34 to col. 5, 11. 42). Harrington discloses, as in claims 25 and 41, as wherein said processing means further comprises a message selector for determining whether said voice participant message are active participant messages or inactive participant messages such that only said active participant messages are converted into participant data signals to be presented at said output device .

Harrington discloses, as in claims 26, 35, 40, 41, 44-49 wherein the bidder voice terminals are attached are attached, via said connection means, to said message selector such that only said active bidder messages are converted into bidder data signals to be presented at said bidder voice terminals (see col. 9, 11. 12+).

Harrington discloses wherein said inactive bidder messages are returned to an originating bidder voice terminal each accompanied by a message that each bidder message was determined to be inactive (see col. 4, 11. 56+).

Harrington, as in claims 31, 32, 37, 38, wherein said propagation delay estimates are obtained by estimating the delay before receiving an echo from each bidder voice terminal (see col. 9, 11. 12+).

In view of the teachings of Harrington, it would have been obvious for an artisan at the time of the invention to employ/integrate an auction network with auctioneer and bidder terminals/computers, as well as the other aforementioned features taught by Harrington because an artisan at the time of the invention of Nitta would have recognized such modifications as obvious extensions to the teachings of Nitta to provide a configuration

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wherein his system maybe used to provide an auction for participants. Thus such a modification would have constituted an obvious matter of design choice well within the ordinary skill in the art.

On the other hand, it would have been obvious to an artisan at the time of the Harrington invention was made to integrate the aforementioned features taught of Nitta into Harrington because an artisan at the time of the invention of Harrington would have desired to provide a remote interactive auction wherein participants have a "sense" of the presence of the other bidders involved. Thus all bidders are present within a virtual meeting place and are able to interact visually as well as audibly in a manner that would be similar to a conventional auction. Thus to employ the teachings of the Nitta system into the Harrington system would add to the excitement of the auction process and thus have been an obvious expedient well within the ordinary skill in the art.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S Felten  
Examiner  
Art Unit 3624

DSF  
August 18, 2006



ELLA COLBERT  
PRIMARY EXAMINER